place of trial, the pendency of which undetermined ousts the court of jurisdiction to make any order save one granting or denying the motion.[8]

O. K. M.

**Schools—County High Schools and Union High Schools.**—In a recent case [1] the Supreme Court has been called upon to decide whether, when there is in the same county a "county high school" and a "union high school," the property owners within the union high school district shall be taxed to support the county high school. Subd. 20 of Sec. 1670, as enacted in 1893 (Sec. 9 of the original union high school act of 1891),[2] exempted such property in explicit terms. Subd. 4 of Sec. 1671, as enacted in 1893, provided that the board of supervisors, in raising money for the support of a county high school, should "levy a tax upon all of the assessable property of the county, except as provided in Subd. 20 of Sec. 1670." Section 1757, as enacted in 1909, seeks to accomplish the same exemption by providing: "The board of supervisors . . . must . . . levy a special tax on all the taxable property in such high school district and within their county, or in case of a county high school, upon all the taxable property in their county not in any high school district."

There has been one consistent policy exhibited in this matter by the high school legislation. And it can hardly be questioned that the legislature has acted within its constitutional rights in exempting property within a union high school district from taxation for the support of county high schools, as the Supreme Court in the case at bar has decided. This position finds support in the following considerations:

The establishment and change of boundaries of school districts is a legislative act; [3] school districts are corporate entities distinct from municipal or political subdivisions of the State, even though their territorial limits be coterminous; [4] the legislature has larger freedom in respect to the constitution and maintenance of high schools than of elementary schools; [5] high schools are governed by different laws of taxation than obtain in school districts generally; [6] and the validity of a tax cannot upon principle be upheld which falls upon property outside of the district to be benefited by its expenditure.[7]

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[8] Hennessy v. Nicol (1894), 105 Cal. 138, 38 Pac. 649; Brady v. Times Mirror Co. (1895), 106 Cal. 56, 39 Pac. 209.

[1] Wood v. County of Calaveras (1912), 45 Cal. Dec. 8.

[2] Stats. 1891, p. 182.

[3] Hughes v. Ewing (1892), 93 Cal. 414, 28 Pac. 1067.

[4] Los Angeles City School District v. Longden (1905), 148 Cal. 380, 83 Pac. 246; Hancock v. Board of Education (1903), 140 Cal. 554, 74 Pac. 44.

[5] People v. Lodi High School Dist. (1899), 124 Cal. 694, 57 Pac. 660.

[6] Brown v. Visalia (1903), 141 Cal. 372, 74 Pac. 1042.

[7] Hughes v. Ewing (1892), 93 Cal. 414, 28 Pac. 1067.

The only portion of the opinion of the court about which we entertain any doubt is its dictum that prior to 1909 Subd. 9 of Sec. 1671 related only to the scholastic requirements for admission of pupils to a county high school, and that attendance of non-residents at a county high school was determined by Subd. 25 of Sec. 1670.

Sections 1670 and 1671, as incorporated into the Political Code in 1893, were only slightly revised codifications of the original statutes of 1891, dealing respectively with union high schools [2] and with county high schools.[8] The original acts and the sections of the code down to 1909 were mutually exclusive, each was complete in itself, and it is erroneous, we believe, to apply a subdivision of one to qualify the meaning of the other. Section 9 of the county high school act of 1891, which became Subd. 9 of Sec. 1671, provided that county high schools should be "open to graduates of the grammar schools of the county, and to all pupils of the county who can pass the examination for admission." Section 8 of the union high school act of 1891, which became Subd. 13 of Sec. 1670, provided that graduates of the "school districts comprising the union high school district should be admitted without examination"; "other applicants resident in the district upon examination"; and non-residents upon paying a tuition fee. Subd. 24 of Sec. 1670, not found in the original act of 1891, and renumbered "25" in 1897, provided that a pupil residing in one high school district might attend school in another high school district for reasons of "distance and convenience in traveling," upon terms to be arranged between the two districts.

While we believe that the territory served by the county high school is practically a "school district," and that the county high school is but a name of convenient designation, like city high school, and has nothing in common with the county government, any more than the city schools have with the city government, still we do not believe that Subd. 25 of Sec. 1670 controlled in the least the admission of pupils to county high schools. Since 1909 the situation has been changed. Sections 1670 and 1671 were then repealed, and the laws governing high schools were correlated and co-ordinated, more or less successfully, in Sections 1720 to 1751. The provisions of Subds. 13 and 25 of Sec. 1671 and Subd. 9 of Sec. 1670 are now embodied in Sec. 1751.

W. C. J.

**Statutes and Statutory Interpretations—Reclamation Fund Act.**—By the provisions of the Reclamation Act of June 17, 1902,[1] the reclamation fund was created for the purpose of constructing irrigation works in the western States. It was intended to be a revolving fund, a certain sum being laid out in the establishing of each project and the same amount to be returned to the fund by the assessments made upon the

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[6] Stats. 1891, p. 57.

[1] 32 U. S. Stat. at Large 389, Sec. 1.